

Commonwealth of Massachusetts

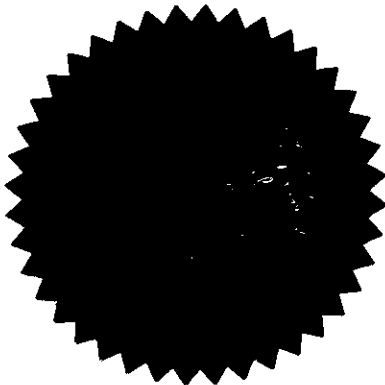
County of Hampshire

The Superior Court

CA 04-30209-MAP

I, **Nancy A. Foley, Assistant Clerk** of the Superior Court of the Commonwealth of Massachusetts within and for said County of Hampshire, do certify that the papers hereto annexed are true pleadings in case No. **HSCV2004-00221** entered in the Superior Court on **09/17/2004**.

IN TESTIMONY WHEREOF, I hereunto set my hand and
affix the seal of said Superior Court,
at said Northampton
this 2nd day of November, in the year of our
Lord 2004



Nancy A. Foley
Assistant Clerk of the Courts

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE

NOV 3 2004

U.S. DISTRICT COURT
DISTRICT OF MASS.

PATRICIA E. SLATTERY, and
MICHAEL B. SLATTERY,
Plaintiffs,

v.

RICHARD HOWSE, TRAVELERS
TRANSPORTATION SERVICE, INC., and
KINGSWAY GENERAL INSURANCE
COMPANY,
Defendants

CIVIL ACTION NO.

04 - 30209 - MAP

NOTICE OF REMOVAL

The defendant, Kingsway General Insurance Company ("Kingsway") hereby notices the removal of the following described action from the Hampshire Superior Court ("State Court"), to the United States District Court for the District of Massachusetts ("District Court"), as authorized by 28 U.S.C. § 1441, et seq. The defendant respectfully submits the following grounds for removal:

I.

The plaintiffs, Patricia E. Slattery and Michael B. Slattery filed suit against the defendants on September 17, 2004, in a suit entitled Patricia E. Slattery, et al v. Richard Howse, et al, in Hampshire Superior Court (Hampshire County), Massachusetts ("State Court action"). A copy of the Complaint ("Complaint") is attached hereto as Exhibit A.

II.

Kingsway received a copy of the Complaint and Summons on October 7, 2004, via registered mail. Upon information and belief, the defendants, Richard Howse ("Howse") and Travelers Transportation Service, Inc. ("Travelers") have not yet been served. In any event, none

of the defendants have filed a responsive pleading to the Complaint, and the defendant has not received any other pleadings or orders in the State Court action. To the defendant's knowledge, with the exception of the filing of the Complaint, there have been no further proceedings in the State Court action.

III.

Kingsway was served with the Complaint on October 7, 2004. This Notice of Removal has been filed within the thirty (30) day period prescribed by 28 U.S.C. § 1446 (b).

IV.

According to the Civil Action Cover Sheet, which accompanied the Complaint, the plaintiffs claimed damages are in excess of \$75,000. See Exhibit A. The plaintiff seeks damages from the defendants based on theories of negligence, negligent entrustment and violations of Mass. Gen. Laws Chapters 93A and 176D. The nature of the allegations are stated in the Complaint, attached hereto as Exhibit A. The defendant denies that it was negligent or violated these statutes. The defendant further states that it has valid defenses to the allegations contained in the Complaint.

V.

The captioned District Court sits in the district and division embracing the place where the State Court action is pending.

VI.

The District Court has jurisdiction over this action based on diversity of citizenship pursuant to 28 U.S.C. § 1332. The plaintiffs are citizens of Florida, with a residence at 19784 SW 93 Lane, Dunnellon, Florida. Howse is a citizen of Canada, with a residence at 28 Salisbury Road RR7, Belleville, Ontario, Canada. Travelers is a Canadian corporation with a principal place of business at 195 Heart Lake Road South, Brampton, Ontario, Canada. Kingsway is a

Canadian corporation with a principal place of business at 5310 Explorer Drive, Mississauga, Ontario, Canada. The amount in controversy, in the event that the plaintiffs were to prevail on their claims, exceeds \$75,000, jointly or severally, exclusive of interest and costs.

VII.

Pursuant to 28 U.S.C. § 1332 (a), the District Court has original jurisdiction over all civil actions in which the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest or costs, and which are between citizens of a state and citizens or subjects of a foreign state. Pursuant to 28 U.S.C. § 1332 (c) (1), a corporation is deemed to be a citizen of any state in which it is incorporated and the state where it has its principal place of business. Therefore, the District Court has original jurisdiction under 28 U.S.C. 1332, and this action may be removed from the State Court pursuant to 28 U.S.C. § 1441 (a) and (b).

VIII.

Howse, Travelers and Kingsway are the only defendants in this matter.

IX.

A list of counsel of record is attached hereto as Exhibit B. An index of all matters being filed herewith is attached hereto as Exhibit C.

X.

The defendant appears herein by and through its attorneys specifically and solely for the purpose of removing the State Court action to the District Court.

XI.

Promptly after filing this Notice of Removal of the State Court action, the defendant will give written notice of such filing to the plaintiffs and file a copy of the Notice of Removal with the Clerk of the State Court, which shall effect the removal of the State Court action and the State Court shall proceed no further unless and until the case is remanded.

WHEREFORE, the defendant, Kingsway General Insurance Company prays that this Notice of Removal be accepted as good and sufficient, that the aforesaid Complaint be removed from the State Court to the District Court for trial and determination as provided by law, that the District Court enter such orders and issue such process as may be proper to bring before it copies of all records and proceedings in said State Court action, and thereupon proceed with this civil action as if it had originally been commenced in the District Court.

SO NOTICED this 25th day of October 2004.

Respectfully Submitted,

KINGSWAY GENERAL INSURANCE
COMPANY,

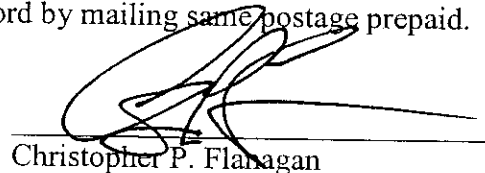
By their attorneys,



Maynard M. Kirpalani, BBO# 273949
Christopher P. Flanagan, BBO# 567075
WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE

I, Christopher P. Flanagan, hereby certify that I have this 25th day of October 2004, served a copy of the foregoing upon counsel of record by mailing same postage prepaid.



Christopher P. Flanagan

EXHIBIT A

COMPLAINT AND CIVIL ACTION COVER SHEET

COMMONWEALTH OF MASSACHUSETTS

HAMPSHIRE, SS.

HAMPSHIRE SUPERIOR COURT
C.A. NO. 04-221

PATRICIA E. SLATTERY, and
MICHAEL B. SLATTERY,

Plaintiffs,

v.

RICHARD HOWSE, TRAVELERS
TRANSPORTATION SERVICE, INC., and
KINGSWAY GENERAL INSURANCE
COMPANY,

Defendants

NOTICE OF FILING OF NOTICE OF REMOVAL

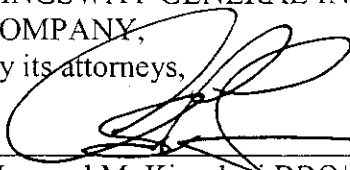
PLEASE TAKE NOTICE that on October 25, 2004, the defendant, Kingsway General Insurance Company filed with the office of the Clerk of the United States District Court for the District of Massachusetts a Notice of Removal of the above captioned action to said United States District Court. Pursuant to 28 U.S.C. § 1446 (d), notice is hereby given to all adverse parties and to the clerk of the State Court that such a removal has been filed. A copy of such Notice of Removal is attached as Exhibit A.

A copy of the Notice of Removal has been served on all counsel of record.

SO NOTICED this 28th day of October 2004.

Respectfully Submitted,

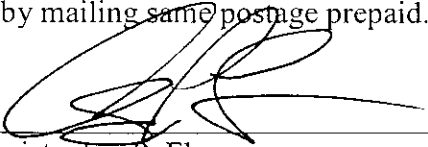
KINGSWAY GENERAL INSURANCE
COMPANY,
By its attorneys,



Maynard M. Kirpalani, BBO# 273949
Christopher P. Flanagan, BBO# 567075
WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER
155 Federal Street
Boston, MA 02110
(617) 422-5300

CERTIFICATE OF SERVICE

I, Christopher P. Flanagan, hereby certify that I have this 28th day of October 2004, served a copy of the foregoing upon counsel of record by mailing same postage prepaid.



Christopher P. Flanagan

EXHIBIT A

3

LAW OFFICE OF NEIL BURNS
SIX BEACON STREET
SUITE 600
BOSTON, MASSACHUSETTS 02108
617- 227-7423
FAX: 617-227-0691

04 221

NEIL BURNS
 KEITH P. SLATTERY

ROBERT M. NATHAN
 OF COUNSEL

October 20, 2004

Civil Business Division
 Hampshire County Superior Court Department
 15 Gothic Street
 Post Office Box 1119
 Northampton, Massachusetts 01060

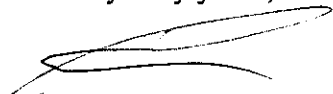
Re: Patricia E. Slattery and Michael B. Slattery v. Richard Howse, Travelers Transportation Service, Inc., and Kingsway General Insurance Company
Hampshire Superior Court Civil Action Number 04-00221

Dear Sir or Madam:

Enclosed for filing please find proof of service pursuant to Mass. General Laws, Chapter 223A, in the form of a United States Postal Service Return Receipt (article number RA 009840838 US) with Summons and service letter as they relate to the above-entitled action.

Thank you for your attention to this matter.

Very truly yours,



RECEIVED
 HAMPSHIRE SUPERIOR COURT
 NORTHAMPTON, MASS.
 OCT 22 2004
 11:41

Completed by the office of origin. (A remplir par le bureau d'origine.)	Item Description (Nature de l'envoi)		<input checked="" type="checkbox"/> Registered Article (Envoi recommandé)	<input type="checkbox"/> Letter (Lettre)	<input type="checkbox"/> Printed Matter (Imprimé)	<input type="checkbox"/> Other (Autre)	<input type="checkbox"/> Recorded Delivery (Envoi à livraison attestée)	<input type="checkbox"/> Express Mail International
	<input type="checkbox"/> Insured Parcel (Colis avec valeur déclarée)		Insured Value (Valeur déclarée)		Article Number			
Completed at destination. (A compléter à destination.)	Office of Mailing (Bureau de dépôt)		Date of Posting (Date de dépôt)					
	02/33		RA 009840838 US					
	Addressee Name or Firm (Nom ou raison sociale du destinataire)							
	Jim Hicks, Office of the President, Travelers Transport. Serv							
	Street and No. (Rue et No.)							
199 Heart Lake Road, Northampton, MA 01060								
Place and Country (Localité et pays)								
Brampton, Ontario CANADA								
This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination; or, (3) if those regulations so provide, by the employee of the office of destination. This signed form will be returned to the sender by the first mail. (Cet avis doit être signé par le destinataire ou par une personne y autorisée en vertu des règlements du pays de destination, ou, si ces règlements le permettent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement (expédition).)								
The article mentioned above was duly delivered. (L'envoi mentionné ci-dessus a été dûment livré.)								
Signature of Addressee (Signature du destinataire)		Office of Destination Employee Signature (Signature de l'agent du bureau de destination)						
[Signature]		[Signature]						
PS Form 2866, February 1997 (Reverse)								

04 221 7

LAW OFFICE OF NEIL BURNS
SIX BEACON STREET
SUITE 600
BOSTON, MASSACHUSETTS 02108
617- 227-7423
FAX: 617-227-0691

NEIL BURNS
 KEITH P. SLATTERY

ROBERT M. NATHAN
 OF COUNSEL

October 13, 2004

Civil Business Division
 Hampshire County Superior Court Department
 15 Gothic Street
 Post Office Box 1119
 Northampton, Massachusetts 01060

Re: Patricia E. Slattery and Michael B. Slattery v. Richard Howse, Travelers Transportation Service, Inc., and Kingsway General Insurance Company Hampshire Superior Court Civil Action Number 04-00221

Dear Sir or Madam:

Enclosed for filing please find proof of service pursuant to Mass. General Laws, Chapter 223A, in the form of a United States Postal Service Return Receipt (article number RA 009840841 US) with Summons and service letter as they relate to the above-entitled action.

Thank you for your attention to this matter.

Very truly yours,

Completed by the office of origin. (A remplir par le bureau d'origine.)	Item Description (Nature de l'envoi)		<input checked="" type="checkbox"/> Registered Article (Envoi recommandé)	<input type="checkbox"/> Letter (Lettre)	<input type="checkbox"/> Printed Matter (Imprimé)	<input type="checkbox"/> Other (Autre)	<input type="checkbox"/> Recorded Delivery (Envoi à livraison attestée)	<input type="checkbox"/> Express Mail International
	<input type="checkbox"/> Insured Parcel (Colis avec valeur déclarée)		Insured Value (Valeur déclarée)		Article Number			
Office of Mailing (Bureau de dépôt)		Date of Posting (Date de dépôt)						
02133		RA 009 840 841 US						
Addressee Name or Firm (Nom ou raison sociale du destinataire)								
John McGlynn, Office of the President, Kingsway Gen Ins.								
Street and No. (Rue et No.)								
5310 Explorer Drive								
Place and Country (Localité et pays)								
Mississauga, Ontario L4W 9H8 CANADA								
Completed at destination. (A compléter à destination.)	This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination, if those regulations so provide, by the employee of the office of destination. This signed form will be returned to the sender by the first mail. (Cet avis doit être signé par le destinataire ou par une personne y autorisée en vertu des règlements du pays de destination, ou, si ces règlements le comportent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement à l'expéditeur.)							
	<input type="checkbox"/> The article mentioned above was duly delivered. (L'envoi mentionné ci-dessus a été dûment livré.)							
Signature of Addressee (Signature du destinataire)		Office of Destination Employee Signature (Signature de l'agent du bureau de destination)						
Monica		J. McDonnell						

LAW OFFICE OF NEIL BURNS

SIX BEACON STREET

SUITE 600

BOSTON, MASSACHUSETTS 02108

(617) 227-7423

FAX: (617) 227-0691

NEIL BURNS

KEITH P. SLATTERY

ROBERT M. NATHAN

OF COUNSEL

VIA REGISTERED MAIL
RETURN RECEIPT REQUESTED

September 29, 2004

John McGlynn, Office of the President
Kingsway General Insurance Company
5310 Explorer Drive
Mississauga, Ontario L4W 5H8
CANADA

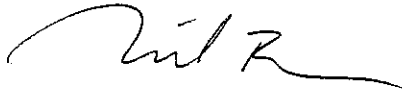
**Re: Patricia E. Slattery and Michael B. Slattery v. Richard Howse, Travelers
Transportation Service, Inc., and Kingsway General Insurance Company
Hampshire Superior Court Civil Action Number 04-00221**

Dear Mr. McGlynn:

Pursuant to Mass. General Laws, Chapter 223A (the Massachusetts Long Arm Statute), enclosed is a Complaint and Summons with regard to the above-entitled action. We call your attention to the Massachusetts Rules of Civil Procedure which provides that you or your counsel have twenty days within which to respond to the same, as set forth in the Summons.

In addition to the enclosed Complaint and Summons, please find a tracking order in reference to the above.

Very truly yours,



Neil Burns

NB/af

Enclosures

Cc: Ms. Patricia E. Slattery
Mr. Michael B. Slattery

COMMONWEALTH OF MASSACHUSETTS
HAMPSHIRE, SS.

Superior Court Department of the
Trial Court of the Commonwealth
Civil Action

No. 04-00221

Patricia E. Slattery, and,
Michael B. Slattery, Plaintiff (s)

v.

SUMMONS

Richard Howse, Travelers
Transportation Services, Inc., and
Kingsway General Insurance
Company, Defendant (s)

To the above-named Defendant : Kingsway General Insurance Company

You are hereby summoned and required to serve upon Attorney Neil Burns, plaintiff's attorney, whose address is 6 Beacon St., Suite 600, Boston, MA, 02108, USA an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Northampton, either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff's which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire at Northampton, the 29th
day of September, in the year of our Lord two thousand
four.

CLERK-MAGISTRATE

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption.
If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. Circle type of action involved. Tort - Motor Vehicle Tort - Contract - Equitable relief.

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 20____.
I served a copy of the within summons, together with a copy of the complaint in this action
upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

Dated: _____, 20____.

N.B. TO PROCESS SERVER:-

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON
THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

_____, 20____.

Commonwealth of Massachusetts
HAMPSHIRE, ss. SUPERIOR COURT
CIVIL ACTION
No. _____

Plff.

v.

Deft.

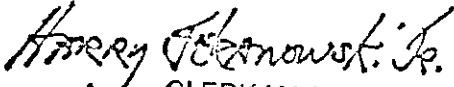
SUMMONS
(Mass. R. Civ. P. 4)

Commonwealth of Massachusetts

County of Hampshire

The Superior Court

A TRUE COPY
ATTEST



RE: ~~Slattery et al vs. Thaw~~ et al

CIVIL DOCKET# HSCV2004-00221

TO: Thomas F. Reilly, Attorney General
Consumer Protection Division
One Ashburton Place
Boston, MA 02108-1698

NOTICE OF COMPLAINT FILED UNDER CHAP. 93A

Enclosed is a copy of the Complaint in the above entitled action seeking relief pursuant to G.L. Chap. 93A, filed on **09/17/2004** in the Hampshire Superior Court.

Dated at Northampton, Massachusetts this 17th day of September, 2004.



Harry Jekanowski, Jr.,
Clerk of the Courts

P.C. Office of the Attorney General, Western Mass. Division, 1350 Main Street,
Springfield, MA 01103-1629